

## REMARKS

The Final Office Action of February 2, 2011 has been received and considered. Claims 1-36 are pending in this application. Claims 1 and 21 have been amended.

Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested. Each of the Examiner's rejections is discussed below.

### Section 112

Claims 1-24 have been rejected under 35 U.S.C. § 112, first paragraph, on the ground that the limitation "substantially an entire interior surface of the swimsuit body is in contact with the swimmer's body when the swimsuit body is worn by a user" is new matter. This limitation has been removed, and the claims are now believed to be in proper form. An indication to that effect is respectfully requested at this time.

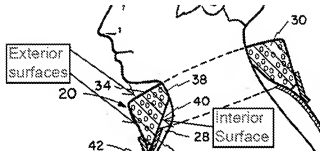
### Section 102

Claims 1, 2, 7-11, 15, 19, 21, 22, 26-29, and 33 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,365,351 to Doerschuk et al ("Doerschuk"). This rejection is respectfully traversed.

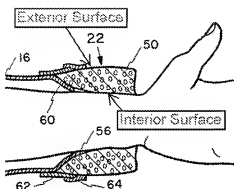
Doerschuk fails to disclose or make obvious a swimsuit body configured to be stretched over a swimmer's body, and a resilient seal having an interior surface, a first portion of the interior surface secured about the at least one aperture on an exterior of the swimsuit body and a second portion of the interior surface extending beyond the swimsuit body and configured to contact the user's body when the swimsuit body is worn by the user, **and an exterior surface**

**that is substantially parallel to the interior surface and is completely exposed to an exterior of the swimsuit body**, as required by independent claims 1 and 21.

Doerschuk lacks the required exterior surface of a resilient seal that is substantially parallel to an interior surface of the seal, and which is completely exposed to an exterior of the swimsuit body. As seen below in a portion of Fig. 2 of Doerschuk, neither of the two exterior surfaces of neck seal 20 are substantially parallel to the interior surface (frustoconical surface 40). By design, the interior frustoconical surface is not substantially parallel to either the top surface 34 or the vertically extending exterior of cylindrical body 30. Further, the vertically extending exterior of cylindrical body 30 is not completely exposed to an exterior of the swimsuit since tape 42 overlies a portion of its surface.



The other embodiment of a seal 22 of Doerschuk is designed to wrap about a user's wrist, and also fails to meet this required limitation. As can be seen in the portion of Fig. 5 shown below, the exterior surface of seal 22 is not completely exposed to an exterior of the swimsuit body; it is partially covered by tape 64. Additionally, only a portion of the exterior surface of seal 22 is substantially parallel to the interior surface.



**FIG. 5**

Accordingly, the rejection is improper and should be withdrawn.

**Section 103**

Claims 1-3, 5, 6, 9-111, 13, 19-25, 28, 29, 31, and 33 have been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,088,032 to Newman ("Newman") in view of Doerschuk. This rejection is respectfully traversed.

The Office Action asserts that it would have been obvious to modify Newman to have its seal as an exterior mount as shown by Doerschuk.

Applicant respectfully submits that one skilled in the art would not have modified Newman with Doerschuk as suggested in the Office Action. As recited in the Brief Summary of the Invention, Newman states that the basis of its invention is suction cup sealing strips on the interior of leg holes and waist portions of bathing suits. The suction cups are held in sealing engagement with the user's torso by the force of suction, along with the elastic nature of the resilient strip and water pressure.

One skilled in the art would not have modified the location of the seal of Newman to be on an exterior of the bathing suit to match that of Doerschuk. To do so would defeat the primary

purpose of the sealing strip of Newman, that is, its suction cup sealing by engagement with the user's skin.

Further, Applicant submits that the reason provided in the Office Action for so modifying Newman is not supported by the teachings of Newman or Doerschuk or on any other basis. The Office Action asserts that one would have so modified Newman in order to provide unfettered access to the seal while the suit is being worn so that the seal can be visually inspected for wear and/or replaced. Applicant respectfully submits that a user of the bathing suit of Newman is more likely to visually inspect the seal when the user is not wearing the bathing suit for at least two reasons. First, a user simply cannot visually inspect much of the seal while wearing the suit. The portions of the seal that extend around the user's back and/or back of the user's leg cannot be seen by the user when wearing the suit. The user would have to remove the suit in order to inspect these portions of the seal. \

Additionally, in order to inspect the suction cup seal of Newman for wear, the user is more likely to want to look at the interior surface of the seal for signs of wear, since it is the interior surface that has the suction cup structure, and deterioration of this portion of the seal would be the area of concern with respect to wear and potential leakage. It would be much more logical for the wearer of the bathing suit of Newman to inspect the seal when it is not being worn so that the entire seal can be inspected, and that the critical portion of the seal can be inspected.

Thus, it can be seen that one skilled in the art would not have modified Newman's seal with the positioning of the seal of Doerschuk, and that the reason provided in the Office Action for such a modification has no support in Newman, Doerschuk, or elsewhere.

Accordingly, the rejection is improper and should be withdrawn.

**Conclusion**

It is respectfully submitted that the pending claims are in form for allowance. Please apply any charges or credits to Deposit Account No. 19-0733.

Respectfully submitted,

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